

24 MAY 1983

Certified Mail P364179305
Return Receipt Requested

Jacob L. Fox, Esquire
Alzheimer & Gray
Attorneys at Law
1 IBM Plaza
Chicago, Illinois 60611

Re: RCRA Consent Agreement and Final Order
Docket NO. 9-83-RCRA-6

Dear Mr. Fox:

Enclosed is your copy of the executed Consent Agreement and Final Order which contains the terms of the settlement reached with David M. Jones of the Office of Regional Counsel on May 3, 1983.

April 29
Your payment of the amount stipulated in the Consent Agreement and Final Order and completion of the clean-up of the facility pursuant to 40 CFR 22.18 will close this case. If you have any questions regarding the rules, regulations and statutes governing your operations which are implemented by the Agency or which govern the proceedings terminated by the enclosed document, please feel free to call us.

Sincerely yours,

Original Signed by: *J. Zelekson for*

Harry Seraydarian
Director
Toxics & Waste Management Division

Enclosure

cc: Bruce Scott, AZ Department of Health Services
Lorraine Pearson, EPA Region 9 *Hearing Clerk*

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Blais Jones

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1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY
3 REGION 9

4 In re:) Docket No. 9-83 RCRA 6
5)
6 UNION MANUFACTURING INC.) CONSENT AGREEMENT
7) AND
8) FINAL ORDER
9 Respondent,)

10 CONSENT AGREEMENT

11 I

12 This administrative proceeding for the assessment of a civil
13 penalty was initiated pursuant to Section 3008(a)(1) of the
14 Resource Conservation and Recovery Act (RCRA), as amended, 42
15 USC 6928(a)(1) and the Consolidated Rules of Practice Governing
16 the Administrative Assessment of Civil Penalties and the
17 Revocation or Suspension of Permits, 40 CFR Part 22. The
18 action was instituted by a Determination of Violation, Compliance
19 Order and Notice of Opportunity to Request a Hearing (Complaint)
20 issued on March 14, 1983, which charged Union Manufacturing
21 Inc., an Arizona corporation (hereinafter "Respondent"), with
22 violation of RCRA Section 3004[42 USC 6924] and the following
23 regulations published by the Administrator, United States
24 Environmental Protection Agency to implement that RCRA Section:

25 40 CFR 265.13(a), 40 CFR 265.13(b), 40 CFR 265.14(a),
26 40 CFR 265.31, 40 CFR 265.51, 40 CFR 265.90, 40 CFR 265.143,
27 40 CFR 265.145, 40 CFR 265.147(a), 40 CFR 265.171 and 40 CFR
28 265.173

29 at the facility owned by Respondent (Facility). In addition to
30 the violations set forth in the Complaint, Respondent was charged
31 with certain other violations of the same RCRA Section at the

1 Facility which were enumerated in a letter dated March 9, 1983,
2 which transmitted the Complaint (Transmittal Letter) and
3 identified as 40 CFR 265.15(b), 40 CFR 265.15(d), 40 CFR 265.16(d)
4 40 CFR 265.17(a), 40 CFR 265.112, 40 CFR 265.118, 40 CFR 265.142,
5 40 CFR 265.144 and 40 CFR 262.21(a)(4). The Complainant is the
6 United States Environmental Protection Agency, Region 9 (EPA).

7 II

8 Respondent and Complainant, admit and agree that the Regional
9 Administrator EPA has jurisdiction of the subject matter of the
10 action set out in the Complaint and over the parties thereto,
11 pursuant to Section 3008 of RCRA [42 USC 6928] and 40 CFR 22.04(a)
12 and 22.37.

13 III

14 For the purpose of this Consent Agreement and Order Respondent
15 neither admits nor denies the factual allegations set forth in the
16 Complaint and Respondent agrees to waive any right to a hearing on
17 any issue which may be derived from the Respondent's answer to
18 the allegations in the Complaint, and consents to the payment of
19 the penalty as proposed in the Complaint and assessed hereunder
20 and the issuance of this Consent Agreement and Order without
21 adjudication.

22 IV

23 Respondent hereby agrees to undertake the remedial actions
24 enumerated herein below, in full satisfaction of the Compliance
25 Order issued by Complainant as part of the Complaint and the
26 violations charged in the Transmittal Letter:

- 27 1. Respondent shall submit to Complainant by close of
28 business May 25, 1983, a complete plan for the closure

1 of the surface impoundment and land disposal areas at
2 the Facility which fully satisfies the requirements
3 of 40 CFR 265.112 and 265.142. Respondent shall
4 complete closure of the surface impoundment and land
5 disposal areas at the Facility within ninety days
6 after receiving closure plan approval from Complainant.
7 Documentation of the completion of closure shall be
8 by submittal of certification of closure to Complainant
9 per 40 CFR 265.115. The requirements for a post-closure
10 plan and post-closure care including the requirements
11 of 40 CFR 265.90 at the Facility will be determined
12 by Complainant upon approval of the closure plan
13 submitted by Respondent. In the event Respondent
14 effects closure of the surface impoundment and land
15 disposal areas at the Facility within the time frame
16 contemplated by this Article IV, Respondent will not
17 be required to provide the closure assurance required by
18 40 CFR 265.143. In the event Complainant finds that
19 Respondent's closure plan does not require post-closure
20 care then Respondent will not be required to provide
21 the post-closure assurance required by 40 CFR 265.145.

- 22 2. In the event Respondent effects closure of the surface
23 impoundment and land disposal areas within the time frame
24 contemplated by this Article IV, Respondent will not be
25 required to fulfill the requirements of 40 CFR 265.13,
26 40 CFR 265.31 and 40 CFR 265.51, charged in the
27 Complaint; and, in addition, Respondent will not be
28 required to fulfill the requirements of 40 CFR 265.15,

1 40 CFR 265.16, 40 CFR 265.118 and 40 CFR 265.144,
2 violations which were set forth in the Letter of
3 Transmittal.

4 3. Respondent shall submit to Complainant by close of
5 business May 18, 1983, proper evidence of financial
6 responsibility for sudden accidental occurrences which
7 fully satisfy the requirements of 40 CFR 265.147(a).
8 In addition, Respondent shall provide to Complainant
9 such documentation as Complainant may require to
10 establish Respondent's obligation with respect to
11 nonsudden accidental occurrences under
12 40 CFR 265.147(b).

13 4. Within ten business days after execution of this Consent
14 Agreement and Order by it, Respondent shall certify to
15 Complainant and the Chief, Bureau of Waste Control,
16 Arizona Department of Health Services, Phoenix, Arizona,
17 that Respondent is in full compliance with the require-
18 ments of 40 CFR 265.14(a).

19 5. Within five consecutive days after execution of this
20 Consent Agreement and Order by it, Respondent shall
21 certify to Complainant and the Chief, Bureau of Waste
22 Control, Arizona Department of Health Services, Phoenix,
23 Arizona, that Respondent is in full compliance with
24 the requirements of 40 CFR 262.21(a)(4),
25 40 CFR 265.17(a), 40 CFR 265.171 and 265.173.

26 V

27 In the event Complainant shall determine that Respondent has
28 failed to accomplish the tasks set forth under Article IV, above

1 in either the prescribed manner or within the prescribed time,
2 then Respondent shall be deemed to be in default under this
3 Consent Agreement and Order. Respondent shall be notified of
4 any determination of default by Complainant by written notice
5 addressed to Respondent setting forth a description of the
6 deficiencies in Respondent's performance of the tasks as set
7 forth in Article IV, above. The written notice required by
8 this Article V shall be delivered to Respondent by Certified
9 Mail Return Receipt Requested. Respondent shall be given five
10 consecutive days from receipt of such notice to certify that
11 the the corrective action required by Complainant as set forth
12 in the written notice has been accomplished. In the event
13 Respondent fails to certify the accomplishment of the tasks
14 which Complainant has found deficient within the time allowed
15 or Complainant after receipt of the certification determines
16 that Respondent's performance remains deficient even after
17 expiration of the five consecutive day period mentioned above,
18 the Complainant shall take such legal action deemed appropriate
19 in the circumstances including but not limited to such penalties
20 as may be assessed under Section 3008 of RCRA, [42 USC 6928].
21 The remedies set forth in this Article V are not exclusive and
22 are in addition to the remedies which Complainant may have
23 either in law or equity.

24 VI


25 Respondents hereby consent to the assessment of a civil
26 penalty in the amount of FIFTEEN THOUSAND
~~SEVENTEEN THOUSAND FIVE HUNDRED~~ DOLLARS.

27 VII


28 Complainant and Respondents consent to entry of this Consent

1 Agreement and Final Order without further notice.

2
3
4 5/9/83 PB
Date



Respondent
VP/GM

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7
8 5/10/83
Date


Harry Seraydarian
Director,
Toxics and Waste Management
Division

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11
12 IT IS HEREBY ORDERED that this Consent Agreement and Final
13 Order (Docket No. 9-83 RCRA 6) be entered, and the Respondents
14 shall, within thirty days of receipt of this Consent Agreement
and Final Order, pay by cashier's or certified check, made
payable to the Treasurer, United States of America, a civil
penalty in the amount of ~~SEVENTEEN THOUSAND FIVE HUNDRED~~ ^{FIFTEEN THOUSAND} DOLLARS.
15 This order shall become effective immediately.

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17
18 5.11.83
Date


for SONIA F. CROW
Regional Administrator
EPA

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